

## MEMORANDUM

To: Unit Heads

From: Troy A. Peoples, P.E.  
State Traffic Engineer

Subject: Public Access to NCDOT Records and Legal Depositions

As you are aware, the 2000 General Assembly increased the amount of monetary damages that individuals may seek in legal actions against the Department and employees acting in their official capacity from \$150,000 to \$500,000. It is expected that there will be increased legal actions as result of this change. There may also be more requests for copies of NCDOT records and files. Based upon Len Hill's October 15, 2001 e-mail, the following guidance will be used when dealing with future requests for copies of documents or records and any proposed legal depositions or interviews.

### **Requests to Review Files or Obtain Copies of Documents and Records**

1. Any person may request copies of NCDOT documents or records and will be permitted to review NCDOT documents or files (that do not contain personal information, such as crash reports) since these are public records. If an e-mail or verbal request is received, the requestor should be advised that the request must be made in writing to the appropriate Unit Head and the requester must specify, to the best of their ability, the specific documents or files that are to be reviewed or copied. The requestor should be advised that the fees described below will be assessed.
2. An NCDOT employee must be present at all times when a document review is conducted. If copies of documents are requested, the following fees have been established for copying and a reasonable service charge for the actual labor costs of NCDOT employees involved in the copying may also be established. A minimum fee of \$25.00 will be assessed. If the actual costs are more than \$25.00, the actual costs will be assessed. These fees will be requested at the time the copies are provided to the requestor and may be paid by cash, personal check, company check, certified check or money order payable to NCDOT.
3. A copy of all documents obtained should be maintained in the files with a notation of the person obtaining the copies and the date the records were reviewed and copies were made.
4. If copies are provided based upon a written request, the same fees for copying and a reasonable service charge for the actual labor costs of NCDOT employees involved in the copying may be assessed, however no charges will be made if the costs are less than \$25.00.
5. Mr. Bob Hargett, Special Deputy Attorney General, Tort Claims Section, telephone 716-6820 should be contacted if there are any questions or the NCDOT employee has any concerns about the request. A copy of the response including a copy of the documents provided should be sent to the Mr. Hargett's office for their files.
6. Responses to written requests will be completed within five (5) working days.

**Costs for Copying**

8-1/2 x 11 - \$0.04 each

8-1/2 x 14 - \$0.04 each

11 x 17 - \$0.10 each

plan sheets - \$0.35

42' x 72' plan sheets - \$1.30 each

**Legal Depositions**

1. If any employee is contacted concerning a legal deposition, Mr. Bob Crawford, Special Deputy Attorney General, (733-3316), must be contacted. The employee will be advised concerning the deposition.
2. Employees should not agree to any proposed deposition without appropriate advice and guidance from the Attorney General's office.
3. If requested, an attorney from the Attorney General's office will attend the deposition and provide advice to the employee during the deposition.

It should be noted that an employee is not required to participate in a legal deposition unless there is a subpoena; however, it is suggested that employees cooperate with any attorney's request for legal depositions to the extent time and workload permit.

**Requests for Interviews by Attorneys or Experts**

Should an attorney or Traffic Engineering expert request to meet informally concerning a potential or pending claim, NCDOT employees may use their judgment. The same procedures involving depositions noted above may be followed. The Attorney General's office will provide guidance, if requested.